

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS. 3939-3940 OF 2001@@
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KUSUM NARULA ...APPELLANT

VERSUS

STATE OF PUNJAB & ORS. ...RESPONDENTS

Date : 18/02/2003 These appeals were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. R.K. Paoor, Adv.
Mr. B.R. Kapur, Adv.
Mr. Sumit Kumar Khatri, Adv.
Mr. Mukesh Kumar Verma, Adv.
for Mr. Anis Ahmed Khan, Adv.

For Respondent (s) Mr. L.N. Rao, Sr.Adv.
Ms. Suruchii Aggarwal, Adv.

Mr. Atul Nanda, Addl.Adv.Gen., Pb.
Mr. R.S. Suri, Adv.

UPON hearing counsel the Court made the following
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Mr. R.K. Kapoor, learned counsel for the appellant started his argumets at 12.30 p.m. and concluded at 12.50 p.m. Ms. Suruchii Aggarwal, learned counsel for the respondents made submissions in reply for five minutes.

The appeal is dismissed in terms of the signed order. No costs.

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Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3939-3940 OF 2001@@
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The appellant in these appeals has assailed the validity and correctness of the order passed by the Division Bench of the High Court in the writ petition as well as the order made in the review petition rejecting the same. The only point that arises for consideration in the light of the submissions of the learned counsel for the parties is : whether there has been compliance of Regulation 2.3 of Chapter VIII contained in the Punjab University Calendar, Volume I, 1994 Edition. The said Regulation reads :

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"A teacher will ordinarily be appointed on one year's probation after which he will normally be confirmed if his work and conduct are found satisfactory. It would be obligatory on the part of a Governing Body to notify to the teacher in writing before the expiry of one year's probationary period, whether he had been confirmed or his period of probation had been extended and in absence of such a notice the teacher would be deemed to have been confirmed.

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The probationary period shall in no case be extended beyond two years from the date of appointment."

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The facts that are not in dispute are that the appellant has been serving as a Lecturer in the A.S. College of Women, Khanna, District Ludhiana for several years. She was appointed as the Principal on 4/6/1997 on a probation period of one year. She joined duty as the Principal on 5/6/1997. On 4/6/1998 a resolution was passed by the Sub-Committee of the College extending her probation period by one more year. On 24/5/1999, i.e., before the extended period of probation was over, the Sub-Committee of the College resolved to terminate her services as the Principal on not being satisfied with her work. However, she was given option to continue in the College as a Lecturer. It was also resolved to pay one month's salary to her in lieu of notice.

The appellant aggrieved by the order of termination of her services as the Principal, filed a writ petition before the High Court challenging the same. The ground urged before the High Court was that before the expiry of the initial probation period of one year, no notice was given to the appellant intimating that her

probation has been extended. The High Court, after ..3/-

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considering the rival contentions held that there was compliance of Regulation 2.3 afore-mentioned and in that view dismissed the writ petition. The review petition filed by him was also dismissed.

Mr. R.K. Kapoor, learned counsel for the appellant strongly contended that there has not been compliance of Regulation 2.3 afore-mentioned. Pointing out to the said Regulation he urged that unless within the period of one year of the probation the appellant was notified in writing that her probation has been extended, she should be deemed to have been confirmed as the Principal; even assuming that the copy of the decision taken on 4/6/1998 was furnished to the appellant, that was not enough inasmuch as no actual order of extending probation by one more year communicated to her. According to the learned counsel this requirement of notifying the appellant in writing of the extension of probation period was mandatory and in the absence of such communication in writing, as the Regulation itself provides, the appellant was deemed to have been confirmed. In that view, according to the learned counsel, the subsequent order of termination of her ..4/-

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services without holding an enquiry whatsoever is bad in law. The High Court committed an error in upholding the contentions raised on behalf of the respondent.

Per contra, learned counsel representing the respondents made submissions supporting the impugned order for the very reasons stated therein.

The High Court, as is evident from the impugned order looking to the Regulation 2.3 and the other material placed before it, has stated thus ;

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"In the case before us, it is not in dispute that immediately after the meeting of the college Sub Committee on 4.6.1998 a certified copy of the decision by which the period of probation of the petitioner had been extended was delivered to her on that very date which was the last day of her initial period of probation. We have also perused the original record which was produced before us by Shri Saron and we find that the petitioner received a certified copy of the decision on 4.6.1998 and gave an acknowledgement in this regard. She was, therefore, notified in writing that her period of probation had been extended. It is true that no formal notice in this regard was given to her but, in our opinion, such a notice is not the requirement of the Regulation. Moreover, she was present in the meeting and knew that her period of probation had been extended. If she had not been notified that her period of probation had been extended then why did she wait to challenge the action of the college in the year 1999 when the meeting was held on

4.6.1998. We are, therefore, satisfied that Regulation 2.3 had been complied with by the

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college and that her period of probation had been duly extended before the expiry of the initial period and she was accordingly notified in writing."

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The order passed by the High Court in the review application is also to the same effect in the following terms :

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"The argument is that this court erred in holding that the resolution had been conveyed. We are not impressed with this argument. Counsel for the management had been directed to produce the records in court and the same were perused by us. We found that a copy of the resolution passed in the meeting on 4.6.1998 had been supplied to the petitioner and she had acknowledged the receipt thereof. The petitioner was also present in court and she did not dispute her signatures on that communication."

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It is true that as per Regulation 2.3 a teacher has to be notified about the extended period of probation. As is clear from the portions of the order of the High Court quoted above, a copy of the resolution passed on 4/6/1998 was served on the appellant. The learned counsel representing the respondents placed the records before us as well. We see the signatures of the appellant having received the copy of the resolution dated 4/6/1998. Learned counsel for the appellant tried

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to make a distinction pointing out to the order of termination actually communicated to the appellant on 26/5/1999 wherein it is specifically stated that her services have been terminated pursuant to the resolution No.4 dated 24/5/1999. In regard to the order of extension of the period of probation passed on 4/6/1999, the actual order of extending the period of probation was not served on the appellant even though copy of the resolution was served on the appellant. We do not find any substance in the argument. The fact remains that the appellant was notified that her probation was extended by one year as per the resolution. Instead of communicating a formal order passed on the basis of the same resolution, the appellant was furnished with the certified copy of the very resolution. In substance, that does not make any difference. The fact that the

period of probation of the appellant was extended by one more year is evident from the very resolution. The High Court, in our view, was right and justified in rejecting ..7/-

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the contention urged on behalf of the appellant. Hence we decline to interfere with the impugned order. Consequently, the appeals are dismissed. No costs.

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.....J.
(SHIVARAJ V. PATIL)

New Delhi,
February 18, 2003.

.....J.
(ARIJIT PASAYAT)